

THE HONOURABLE SRI JUSTICE V. ESWARAI AH

WRIT PETITION No.24716 OF 2005

-

Dated: 23-11-2005

-

Between

Bondalapati Venkateshwar Rao, S/o. Siva Shankara Rao,
Occ: Business, R/o. Koretepadu Road, Gujjanagundla, Guntur District.

...PETITIONER

AND

The Commissioner, Government of Andhra Pradesh, Endowments Department, Tilak Road, Hyderabad and another.

...RESPONDENTS

ORDER:

-

Heard the learned counsel for the petitioner, the Government Pleader for the first respondent and the standing counsel for the second respondent.

The second respondent conducted auction for the leasehold rights for the sale of "Jaggery Water" (Panakam), coconuts, photos and other Pooja Dravyams, at the up hill of Sri Panakala Laxmi Narasimha Swamy as well as at the premises of Sri Lakshmi Narasimha Swamy Temple, Mangalagiri, Guntur District on 07.12.2004 for a period of one year from 08.12.2004 to 07.12.2005 in which the petitioner became the highest bidder quoting an amount of Rs.5,25,000/-. Accordingly, as per the terms and conditions of the tender notification the petitioner deposited a sum of Rs.4,00,000/- towards the security and general deposits. While so, one

Mr. P. Srinivasa Rao filed WP.No.22491 of 2004 praying not to conduct re-auction, stating

that he was the highest bidder for the auction conducted prior to the auction conducted on 07.12.2004 in which the petitioner became the highest bidder. The Court while issuing notice before admission by order dated 10.12.2004 observed as follows:

“The temple authorities have conducted auction and invited bids. The Highest bid was for Rs.5,25,000/- offered by one Bindalapati Venkateswara Rao. It is directed that the petitioner shall be addressed a letter directing him to inform whether he is willing to enter into a contract for that amount. In case he expresses his readiness to enter into a contract for that amount, within three days from the date of receipt of intimation, the respondents shall assign the contract to him. If he fails to respond within that period, it shall be open to them to award the contract to the highest bidder.”

As the said order has not been complied by P. Srinivasa Rao, the writ petition itself was dismissed by order dated 27.12.2004 with the following observations:

“The petitioner challenges the proceedings dated 26.11.2004 whereunder, the 1st respondent proposed to auction the lease hold rights for sale of Jaggery Water. The petitioner responded to an earlier tender. His offer was not approved by the Commissioner, on the ground that it was too low. On the subsequent auctions, pursuant to impugned notification the petitioner did not participate. The highest bid was Rs.5,25,000/-. Through order dated 10.12.2004 this Court directed the respondents to ascertain the willingness of the petitioner to be the lessee at that amount. The petitioner declined. Heard the counsel for the petitioner, Learned Government Pleader for Endowments and Learned Standing Counsel for the 2nd respondent. After going through the record and observing the proceedings that have taken place from time to time, this Court finds that no illegality, as such, has been committed by the respondents. The petitioner did not avail the opportunity afforded to him. Hence, the writ petition is dismissed, the respondent shall refund the amount which is paid by the petitioner, pursuant to the entire bid.”

-

Learned counsel for the petitioner submits that though the writ petition was dismissed as early as on 27.12.2004 the respondents have not taken any action up to 26.09.2005 to hand over the lease hold rights for sale of Jaggery Water, in favour of the petitioner, who became the highest bidder pursuant to the auction conducted on 07.12.2004. There is no justification whatsoever in not handing over the said lease hold rights in favour of the petitioner. More so, the second respondent vide letter dated 26.09.2005 handed over the lease hold rights of the said temple shops in favour of the petitioner for a period of three months from 26.09.2005 to 07.12.2005.

While so, the first vide impugned proceedings D.Dis.No.D1/15689/05 dated 03.11.2005

directed the temple authorities to conduct auction well in advance for the next year 08.12.2005 to 07.12.2006.

Petitioner questions the action of the respondents in handing over the leasehold rights and possession of the temple shops for a residue period of three months only from 26.09.2005 to 07.12.2005 though he deposited a sum of Rs.4,00,000/- for a period of one year towards security deposit. He further questions the action of the first respondent directing the second respondent to call for tenders for conducting auction in respect of the said temple premises for the next year from 08.12.2005 vide impugned proceedings dated 03.11.2005, which is scheduled to be held on 26.11.2005.

Admittedly, the auction was conducted on 07.12.2004 for lease period of one year. In the absence of any provisions for extension of the lease period, I am of the opinion that the petitioner is not entitled for extension of the lease period but he is entitled for refund of the proportionate lease amount for the period during which the petitioner was not handed over the possession. The petitioner is at liberty to file a suit for damages suffered by him on account of illegal action or inaction on the part of the respondents.

The writ petition is accordingly disposed of directing the respondents to refund the proportionate lease amount to the petitioner, for the period for which he was not given possession, within four weeks from the date of receipt of a copy of this order and the petitioner is also at liberty to file a suit for recovery of damages suffered by him.

V. ESWARAIAH, J

November 23, 2005

DSK

-

-